

REMARKS**I. Status of claims**

Claims 1-3 and 5-9 were canceled.

Claims 4, and 10-12 are amended.

Claims 13-14 are new.

Claims 4, and 10-14 are pending.

Support for claim amendments and new claims 13-14 are found through out the specification and in the originally filed claims.

II. Amendments to the Specification.

The status of the priority application is included. Sequence identifier for FIG. 1B is included in the brief description of the drawings. The application as filed, correctly labels the multiple views (e.g., A, B, C) for the brief description of the drawings (page 4, lines 16-34). Therefore, applicants request the examiner to withdraw the objection stated on page 2, paragraph 2 of the Office Action.

III. Amended claims satisfy 35 U.S.C §112 requirements.

Claims 4, and 10-12 are amended. The amended claims are limited to histone genes and not to “any gene involved in T-DNA integration”. The specification as filed, demonstrates that a plant histone gene increases transformation efficiency both transiently and also through stable transformation. The specification also discloses a nucleotide sequence of a representative histone gene, the RAT5 gene of Arabidopsis. Sequence similarity analyses are routinely practiced in the art to identify structurally similar sequences and transformation experiments are also routinely practiced. Histone gene sequences are known and need not be disclosed in the specification (see *Falko-Gunter Falkner v. Inglis*, 448 F.3d 1357, Fed. Cir. 2006). In addition, the claims are not directed to nucleic acid sequences of histone genes. Based on the guidance of the specification regarding transformation efficiency and histone genes, a skilled artisan can readily practice the full scope of the invention as claimed. Therefore, the specification as filed, provides adequate written description and enabling support for the pending claims. If necessary, post-filing evidence regarding transformation efficiency of additional histone genes can be provided by the applicants.

Applicants request withdrawal of the §112 rejection and allowance of pending claims.

IV. Regensburg-Tuink (1993) does not anticipate claim 10.

Regensburg et al., does not anticipate pending claims. Regensburg merely relates to virF gene of *Agrobacterium* and not to plant histone genes. To anticipate, all the claim elements must be taught in a single reference. Therefore, Regensburg does not anticipate claim 10 and applicants request withdrawal of §102(b) rejection.

V. Double patenting rejection.

U.S. Ser. No. 10/098,161 is now U.S. patent 7,122,716, issued October 17, 2006. The '716 patent does not have any claims related to transgenic plant or host cell. Therefore, applicants request the examiner to withdraw the provisional double patenting rejection over U.S. Ser. No. 10/098,161.

If claims of the present application are found allowable, applicants will appropriately file a terminal disclaimer and/or cancel the conflicting claims in the co-pending application 10/664,658.

Applicant requests allowance of all pending claims.

Applicants request that the examiner contact the undersigned representative by telephone to resolve any remaining issues prior to issuing an Office Action.

No fees are believed due at this time, however, please charge any deficiencies or credit any overpayments to deposit account number 12-0913 with reference to our attorney docket number (3220/95461).

Respectfully Submitted,



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